

APR 10 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CUSTIS C. COX,

Defendant - Appellant.

No. 05-30015

D.C. No. CR-03-00137-1-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted April 5, 2006**

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Custis C. Cox appeals *pro se* from his \$125 fine and conviction for criminal trespass to property at Malmstrom Air Force Base, in violation of Montana Code Annotated § 45-6-203 and 18 U.S.C. § 13. We have jurisdiction under 28 U.S.C.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291, and we affirm.

Cox contends that his conviction should be reversed because he was entitled to discovery of the names of two witnesses. Even if this is true, his contention fails because any error did not prejudice his substantial rights. *See United States v. Baker*, 10 F.3d 1374, 1398 (9th Cir. 1993); *see also* Fed. R. Crim. P. 16.

We also conclude that there is sufficient evidence to support Cox's conviction. Based on the credible testimony of Airman Riecher, who stated that she had informed Cox that he needed a visitor pass to enter the base, a rational trier of fact could have found Cox guilty of trespass. *See United States v. Booth*, 309 F.3d 566, 574 n.5 (9th Cir. 2002).

Cox's remaining contentions lack merit.

AFFIRMED.